

**HUMAN SERVICES DEPARTMENT[441]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 225C.6 and 331.438(4), the Department of Human Services proposes to amend Chapter 25, "Disability Services Management," Iowa Administrative Code.

The proposed amendments define the role of the "county of residence" as it relates to the central point of coordination process for services to persons with mental illness, chronic mental illness, mental retardation, developmental disabilities, or brain injury. Under these amendments, all new applications for services would be directed to a person's county of residence rather than the county of legal settlement. The person may be eligible for the services that are outlined in the management plan for the county of residence. These services would be purchased according to the contracted rates of the county of residence.

Under current rules, a person must apply to the central point of coordination for the consumer's county of legal settlement, regardless of where the person is living, and may be eligible only for services listed in the management plan of the county of legal settlement. This sometimes leads to confusion for applicants and may be a barrier to applying for services.

These amendments may result in a county's paying for services that are not in its county management plan or paying a different rate than the county pays for persons living in the county. These changes are in line with what was intended by the Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission's original January 2004 restructuring report.

These amendments do not provide for waivers in specified situations because waivers would lead to uncertainty among applicants and providers.

Any interested person may make written comments on the proposed amendments on or before April 2, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

The Department will also hold a public hearing for the purpose of receiving comments on these proposed amendments on Thursday, April 2, 2009, from 10 to 11 a.m. in Northeast Conference Room 2, Fifth Floor, Hoover State Office Building, Des Moines, Iowa. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Bureau of Policy Analysis and Appeals at (515)281-8440 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 331.424A, 331.439, and 331.440. The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions in rule **441—25.11(331)**:

"*Commission*" means the mental health, mental retardation, developmental disabilities, and brain injury commission established in Iowa Code section 225C.5.

"*County of residence*" means the county in Iowa where, at the time an adult applies for or receives services, the adult is living and has established an ongoing presence with the declared, good-faith intention of living permanently or for an indefinite period. The county where a person is "living" does not mean the county where a person is present for the purpose of receiving services in a hospital, a correctional facility, a halfway house for community corrections or substance abuse treatment, a nursing facility, an intermediate care facility for persons with mental retardation, or a residential care facility or for the purpose of attending a college or university. For an adult who is an Iowa resident and who falls

within the exclusion for county where a person is “living” as described in this rule, the county where the adult is physically present and receiving services shall be the county of residence. The county of residence of an adult who is a homeless person is the county where the adult usually sleeps.

ITEM 2. Amend paragraphs **25.13(1)“i”** and **“l”** as follows:

*i. Access points.* The county shall designate access points and their function in the enrollment process. A process shall be included to ensure that applications received by an access point are forwarded by the end of the working day during which they are received to the consumer’s county of residence ~~and, when known, county of legal settlement, or the county departmental office for those with state case status.~~ The county shall provide training to designated access points on the intake process and use of the application form.

*l. Consumer access.* The manual shall describe how the county will provide access to appropriate, flexible, cost-effective community services and supports to meet the consumer needs in the least restrictive environment possible. This may include guidelines for individualized services and supports and may vary by eligibility group and type of service and support. The manual shall describe how the county of residence will ensure access to services and supports while legal settlement is determined or in dispute.

ITEM 3. Amend subrule 25.13(2) as follows:

**25.13(2) Plan administration section.** The plan administration section of the policies and procedures manual shall specifically outline procedures for administering the plan at the consumer level. These procedures shall include, but shall not be limited to:

*a. Application (intake) procedure.* The plan administration section of the manual shall describe an application process that is readily accessible to applicants and their families or authorized representatives. This procedure shall describe where applicants can apply for services and how and when the applications will reach the CPC office. It shall outline an application review process including, but not limited to, how additional needed information shall be gathered to complete an application, a timeline for the review process, and qualifications of the professional reviewing the application.

(1) Applications shall be accepted and processed by the applicant’s county of residence. If an applicant applies to the CPC of the county of residence and has legal settlement in another county, the application process shall be performed by the CPC of the applicant’s county of residence in accordance with the county of residence’s management plan, and the applicant’s county of legal settlement shall be responsible for the cost of the services or other supports authorized at the rates reimbursed by the county of residence.

(2) If the county of legal settlement has implemented a waiting list in accordance with Iowa Code section 331.439(5), the services and other supports for the person shall be authorized by the county of residence in accordance with the county of legal settlement’s waiting list provisions.

(3) If the county of residence has implemented a waiting list, the services and other supports for the person shall be authorized by the county of residence in accordance with the county of residence’s waiting list provisions.

*b. No change.*

*c. Notice of decision.* The review process shall ensure a prompt screening for eligibility and initial decision to approve or reject the application or to gather more information. ~~▲ The policies and procedures manual shall include the process for development of a written notice of decision which explains the action taken on the application and the reasons for that action shall be sent to the applicant or authorized representative or, in the case of minors, the family or the applicant’s authorized representative. The time frame for sending a written notice of decision shall be included. If the consumer is placed on a waiting list for funding, the notice of decision shall include an estimate of how long the consumer is expected to be on the waiting list and the process for the consumer or authorized representative to obtain information regarding the consumer’s status on the waiting list. The notice of decision shall outline the applicant’s right to appeal and include a description of the appeal process.~~

(1) The notice of decision shall:

1. Explain the action taken on the application and the reasons for that action;

2. State what services are approved and name the service providers;

3. Outline the applicant's right to appeal; and

4. Describe the appeal process.

(2) If the applicant is placed on the county of residence's waiting list for funding, the notice issued by the county of residence shall also include:

1. An explanation of waiting-list status;

2. An estimate of how long the applicant is expected to be on the waiting list; and

3. The process for the applicant or authorized representative to obtain information regarding the applicant's status on the waiting list.

(3) The county of residence shall send the notice of decision to:

1. The applicant (or the family in the case of a minor) or the applicant's authorized representative;

2. The applicant's county of legal settlement (if different from the county of residence); and

3. The listed service providers.

(4) If the applicant's county of legal settlement is different from the county of residence, the county of legal settlement shall sign the notice of decision accepting legal settlement and return it to:

1. The county of residence; and

2. The listed service providers.

(5) If the applicant is placed on the county of legal settlement's waiting list for funding, the county of legal settlement shall add to the notice of decision:

1. An explanation of waiting-list status;

2. An estimate of how long the applicant is expected to be on the waiting list; and

3. The process for the applicant or authorized representative to obtain information regarding the consumer's status on the waiting list.

*d. to f. No change.*

*g. Service funding authorization and reauthorization.* The plan administration section of the manual shall describe who makes the funding authorization and reauthorization decisions and the qualifications of that individual. The procedures shall describe the criteria for authorization and reauthorization of funding and a timeline for responding to the request for funding. ~~The procedures shall describe a process for coordinating the authorization of payment for services and supports with the county of legal settlement for persons with legal settlement in another county, or with the county departmental office for those with state case status. If the county of legal settlement and the county of residence mutually decide, the county of legal settlement may perform the intake and enrollment procedures.~~ For consumers whose county of residence differs from the county of legal settlement, the following procedures shall be used:

(1) The county of legal settlement may continue to authorize services for any consumer receiving services on or before June 30, 2007, even if the service is not in the management plan of the county of residence.

(2) The consumer shall apply for additional services with the CPC of the county of residence. The same procedure shall be followed as for a new applicant.

(3) Once an applicant has been enrolled with the county of legal settlement, the county of legal settlement shall manage reauthorizations of enrollment, such as gathering annual updates of income and resources to confirm continuing eligibility.

(4) The county of legal settlement may also work directly with the consumer or service provider to do periodic service reauthorizations. Services and supports funding must be reauthorized in accordance with the management plan of the county of residence.

(5) A written notice of reauthorization for service funding shall be sent to:

1. The consumer;

2. The county of residence; and

3. The listed service providers.

*h. to j. No change.*

ITEM 4. Amend rule 441—25.14(331), introductory paragraph, as follows:

**441—25.14(331) Policies and procedures manual review.** The policies and procedures manual shall be submitted by April 1, 2000, as a part of the county's management plan for the fiscal year beginning July 1, 2000. The director, in consultation with the ~~state county management committee~~ commission, shall review all county management plans submitted by the dates specified. Based on the recommendations of the ~~state county management committee~~ commission, and if the director finds the county policies and procedures manual in compliance with these rules and state and federal laws, the director may approve the manual. A manual approved by the director for the fiscal year beginning July 1, 2000, shall remain in effect subject to amendment.

ITEM 5. Amend rule 441—25.15(331), introductory paragraph, as follows:

**441—25.15(331) Amendments.** An amendment to the manual shall be submitted to the department at least 45 days ~~prior to~~ before the date of implementation. ~~Prior to~~ Before implementation of any amendment to the manual, the director must approve the amendment. When an amendment substantially changes a county's policies and procedures manual, the department shall present the amendment to the ~~state county management committee~~ commission.

ITEM 6. Amend rule 441—25.16(331) as follows:

**441—25.16(331) Reconsideration.** Counties dissatisfied with the director's decision on a manual or an amendment may file a letter with the director requesting reconsideration. The letter of reconsideration must be received within 30 working days of the date of the notice of decision and shall include a request for the director to review the decision and the reasons for dissatisfaction. Within 30 working days of the receipt of the letter requesting reconsideration, the director, in consultation with the ~~state county management committee~~ commission, will review both the reconsideration request and evidence provided. The director shall issue a final decision, in writing.

ITEM 7. Amend rule 441—25.17(331), introductory paragraph, as follows:

**441—25.17(331) Management plan annual review.** The county shall prepare a management plan annual review for the county stakeholders, the department of human services and the ~~state county management committee~~ commission. The management plan annual review shall be submitted to the department for informational purposes by December 1. The management plan annual review shall incorporate an analysis of the data associated with the services managed during the preceding fiscal year by the county or by a managed care entity on behalf of the county. The management plan annual review shall include, but not be limited to: